

## **II. RESPONSE TO OFFICE ACTION**

### **A. Status of Claims**

Claims 1-79 were pending at the time of the Office Action. Claims 51-68 and 78-79 have been withdrawn by the Examiner as being drawn to a nonelected invention. Claims 1 and 73 have been amended in the Amendment set forth herein. Claims 22-25 have been canceled without prejudice or disclaimer. New claims 80-82 have been added. Support for the new and amended claims can be found generally throughout the specification, such as in the claims as originally filed. Therefore, claims 1-21, 26-50, and 69-77 are currently pending.

### **B. The Objection to Claim 73 has been Overcome**

Claim 73 has been objected to for omitting the word “and” before “cotton.” The claim has been amended to recite “a wheel chair, gauze, and cotton.” Therefore, the objection has been overcome.

### **C. The Rejections Under 35 U.S.C. §112, Second Paragraph, have been Overcome**

Claims 12-20 and 35 have been rejected under 35 U.S.C. §112, second paragraph, as containing trademarks/trade names for FD&C dyes, gendine, genlenol, genlosan, and genfocitol. Applicants respectfully traverse.

The *Manual of Patent Examining Procedure (MPEP)* §2173.05(u) provides that the presence of a trademark or tradename is not, *per se*, improper under 35 U.S.C. §112, second paragraph. “FD&C” and “D&C” dyes are well-known designations given to certain dyes as defined in the Food, Drug, and Cosmetic Act, and are not trademarks. A “tradename” is defined

in the *MPEP* as “a nonproprietary name by which an article or product is known and called among traders or workers in the art, although it may not be so known by the public, generally.” *MPEP* §608.01(v). The *MPEP* §608.01(v) provides that names used in trade are permissible in patent applications if “in this country, their meanings are well-known and satisfactorily defined in the literature.” The names of the FD&C dyes and D&C dyes set forth herein are defined by federal law. These dyes are addressed by these designations in the Code of Federal Regulations (CFR). Applicants direct the Examiner’s attention to 21 CFR 21.74.1101 *et seq.*, which provides information pertaining to FD&C and D&C dyes. By way of example, 21 CFR 74.1708, entitled “D&C Yellow No. 8,” recites that “the color additive D&C Yellow No. 8 is principally the disodium salt of fluorescein.” 21 CFR 74.1708(a)(1). The CFR provides additional information regarding other FD&C and D&C dyes. Thus, the designation of these dyes is not indefinite.

Furthermore, the terms gendine, genlosan, genlenol, and genfoctol are not indefinite. Example 1 (page 18, line 11 through page 26, line 8) provides detailed information regarding the preparation of gendine. Example 1 makes it clear that gendine is a combination of gentian violet and chlorhexidine. Further, one of ordinary skill in the art, upon reading page 23, line 23 through page 24 line 10 would understand that genlosan refers to a combination of gentian violet and triclosan [2,4,4'-trichloro-2'hydroxydiphenyl ether], genfoctol refers to a combination of gentian violet and clofoctol [ $\alpha$ -2,4-dichlorophenyl]-4-(1,1,3,3-tetramethylbutyl)-o-cresol, and genlenol refers to a combination of gentian violet and chloroxylenol [p-chloro-m-xylene; 4-chloro-3,5-dimethylxylenol].

Thus, in view of the above, Applicants respectfully request that the rejection of claims 12-20 and 35 under 35 U.S.C. §112, second paragraph, should be withdrawn.

## D. The Claim Rejections Under 35 U.S.C. §102 have been Overcome

### 1. Rejections Based on Narang *et al.*

Claims 1-2, 4-5, 12, 14, 21-23, 32, 34, and 36-38 have been rejected under 35 U.S.C. §102(e) as being anticipated by Narang *et al.* According to the Action, Narang *et al.* is said to teach an antiseptic composition and compounds comprising a basic reagent (chlorhexidine) and a dye (gentian violet or crystal violet). Applicants respectfully traverse.

It is well-established that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987).

As to claim 1 and claims dependent from claim 1, there is no anticipation because Narang *et al.* does not expressly or inherently disclose any composition comprising a basic reagent and a dye. Narang *et al.* pertains to certain adhesive applicator tips for the application of certain monomeric adhesive compositions. See abstract. The Examiner has cited paragraphs [0052], [0054], and [0062] as teaching an antiseptic composition comprising a basic reagent (chlorhexidine) and a dye (gentian violet or crystal violet). However, this assertion is incorrect, as there is no disclosure in these paragraphs or any other part of Narang *et al.*, which discloses a composition that includes both a basic reagent and a dye. More particularly, Narang *et al.* appears to suggest that chlorhexidine is an example of a “bioactive material” and gentian violet (or crystal violet) is an example of an “initiator” that is also a “bioactive material.” See paragraphs [0052] and [0062]. Paragraph [0049] of Narang *et al.* states that:“

The material applied to the applicator tip can be any material, but is preferably an initiator that initiates polymerization and/or cross-linking of the monomer; a polymerization rate modifier, which modifies the rate of polymerization of the monomer; a bioactive material, such as a medicament; and/or a flavorant.

Further, paragraph [0060] indicates that:

In embodiments where the initiator is also a bioactive material, the bioactive material is applied into the tip in an amount that is effective to initiate polymerization and to be effective for the biological activity intended.

Neither of these paragraphs, or any other disclosure in Narang *et al.*, appears to contemplate the combination of a first agent that is both a “bioactive agent” and an “initiator” with a second agent that is only a “bioactive material.” In fact, paragraph [0060] appears to address the benefits of a single agent that is dually an “initiator” and “bioactive agent.” Thus, if anything, this paragraph teaches away from the combination of an agent that is both an “initiator” and “bioactive agent” with a second “bioactive agent.”

Narang *et al.* also fails to anticipate because it does not disclose a composition comprising one of the basic reagents set forth in current claim 1 and a dye.

Regarding claims 2, 4, 32, and 34, Narang *et al.* does not disclose the limitation of “wherein a basic reagent and a dye are bonded” or “linked by covalent bonding.” The Examiner has cited not section of Narang *et al.* as disclosing such binding, nor do Applicants identify, any such disclosure. Nor is this limitation inherent, as the reference does not disclose that it is necessarily required that the basic reagent be bound to the dye.

For each of the above reasons, Narang *et al.* fails to anticipate. Therefore, Applicants respectfully request that the rejection of claims 1-2, 4-5, 12, 14, 21-23, 32, 34, and 36-38 under 35 U.S.C. §102(e) should be withdrawn.

## 2. Rejections Based on Houze *et al.*

Claims 1-2, 4-5, 12, 14, 21-24, 28-32, 36, 41-43, and 69-71 have been rejected under 35 U.S.C. §102(e) as being anticipated by Houze *et al.* Applicants respectfully traverse.

Houze *et al.* fails to anticipate each of the claims set forth in this rejection because it does not disclose each limitation of each of the claims. As to claim 1, there is no anticipation because Houze *et al.* fails to disclose any of the basic reagents set forth in claim 1. In particular, as to claims 2, 4, 32, 36, and 41-43, the Examiner has not cited, nor do Applicants identify, any disclosure in Houze *et al.* pertaining to bonding between a basis reagent and a dye. By pointing out these particular deficiencies in Houze *et al.*, Applicants in no way concede that Houze *et al.* expressly or inherently discloses other limitations of the claimed invention.

Nevertheless, the rejection as to each of the cited claims has been overcome because Applicants have herein submitted a declaration of inventors in accordance with 37 C.F.R. §1.131 (attached as Appendix A). The declaration sets forth facts demonstrating conception with diligence to reduction to practice of the claimed invention prior to September 25, 1998, the earliest priority date of Houze *et al.*.

Applicants note the declaration is in accordance with 37 C.F.R. §1.131(a)(1) and MPEP §715, as Houze *et al.* does not claim the same patentable invention. More particularly, there are no claims in Houze *et al.* directed to the combination of a dye and a basic reagent.

Therefore, in view of the above, it is respectfully submitted that the rejection of claims 1-2, 4-5, 12, 14, 21-24, 28-32, 36, 41-43, and 69-71 based on Houze *et al.* have been overcome.

### **3. Rejections Based on Rosenberg**

Claims 1-3, 6, 9-10, and 32-33 have been rejected under 35 U.S.C. §102(e) as being anticipated by Rosenberg. Applicants respectfully traverse.

As to claims 1 there is no anticipation because Rosenberg does not disclose any of the basic reagents set forth in claim 1. Nor are dependent claims 6, 9, 10, and 12 anticipated, as these includes the limitations of claim 1.

As to claims 2, 3, 32, and 33, there is no anticipation because Rosenberg does not disclose any information pertaining to binding of a basic reagent and a dye. The Examiner cites column 1, lines 62-65 as teaching “the amphipatic [sic] cationic moiety, chlorhexidine, is linked to the dye by ionic binding.” However, column 1, lines 62-65 include no such recitation. Nor do Applicants identify any such recitation in Rosenberg. If the Examiner is relying on facts within his own personal knowledge to make this rejection, then Applicants invite the Examiner to submit the basis for this knowledge in an affidavit, in accordance with 37 C.F.R. §1.104(d)(2).

In view of the above, there is no anticipation of claims 1-3, 6, 9-10, and 32-33 based on Rosenberg. Therefore, Applicants respectfully request that this rejection should be withdrawn.

#### **4. Rejections Based on Harper *et al.***

Claims 1, 8, 12-13, and 74 have been rejected under 35 U.S.C. §102(e) as being anticipated by Harper *et al.* Applicants respectfully traverse.

As to claims 1, 12, 13, and 74, there is no anticipation because Harper *et al.* fails to expressly or inherently disclose any of the basic reagents set forth in claim 1. By pointing out these particular deficiencies in Harper *et al.*, Applicants in no way concede that Harper *et al.* expressly or inherently discloses other limitations of the claimed invention.

This rejection has been overcome because Applicants have herein submitted a declaration of inventors in accordance with 37 C.F.R. §1.131 (attached as Appendix A). The declaration sets forth facts demonstrating conception with diligence to reduction to practice of the claimed

invention prior to December 20, 2000, the earliest priority date of Harper *et al.* The above discussion pertaining to the declaration of inventors is herein incorporated into this section.

Thus, the evidence set forth in Appendix A demonstrates that the inventors conceived of their invention prior to December 20, 2000, and were diligent in reducing their invention to practice. Applicants note the declaration is in accordance with 37 C.F.R. §1.131(a)(1) and MPEP §715, as Harper *et al.* does not appear to Applicants to claim the same patentable invention. More particularly, Harper *et al.* does not appear to Applicants to include any claims directed to the combination of a dye and a basic reagent.

Therefore, in view of the above, it is respectfully submitted that the rejection of claims 1, 8, 12-13, and 74 based on Harper *et al.* have been overcome.

##### **5. Rejections Based on Parikh *et al.***

Claims 1, 21-22, and 26-27 have been rejected under 35 U.S.C. §102(a) or (e) as being anticipated by Parikh *et al.*

The rejection as to each of the cited claims has been overcome because Applicants have herein submitted a declaration of inventors in accordance with 37 C.F.R. §1.131 (attached as Appendix A). This rejection has been overcome because Applicants have herein submitted a declaration of inventors in accordance with 37 C.F.R. §1.131 (attached as Appendix A). The declaration sets forth facts demonstrating conception with diligence to reduction to practice of the claimed invention prior to April 13, 1999, the earliest priority date of Parikh *et al.* The above discussion pertaining to the declaration of inventors is herein incorporated into this section.

Thus, the evidence set forth in Appendix A demonstrates that the inventors conceived of their invention prior to April 13, 1999, and were diligent in reducing their invention to practice. Applicants note the declaration is in accordance with 37 C.F.R. §1.131(a)(1) and *MPEP* §715, as Parikh *et al.* does not appear to Applicants to claim the same patentable invention. More particularly, Parikh *et al.* does not appear to Applicants to include any claims directed to the combination of a dye and a basic reagent.

Therefore, in view of the above, it is respectfully submitted that the rejection of claims 1, 21-22, and 26-27 based on Parikh *et al.* have been overcome.

#### **6. Rejections Based on Zhuang *et al.***

Claims 1, 21-22, and 25 have been rejected under 35 U.S.C. §102(e) as being anticipated by Zhuang *et al.*

Zhang *et al.* fails to anticipate claim 1 because it fails to expressly or inherently disclose any of the basic reagents cited in claim 1. Claim 21 has been canceled in the amendment set forth herein, so the rejection of this claim is moot. Regarding claim 22 (and dependent claim 25), it is not anticipated because the Examiner has failed to cite, nor do Applicants identify, any disclosure in Zhang *et al.* pertaining to binding of a basic reagent to a dye. Therefore, Zhuang *et al.* fails to anticipate the claimed invention.

The rejection as to each of the cited claims has also been overcome because Applicants have herein submitted a declaration of inventors in accordance with 37 C.F.R. §1.131 (attached as Appendix A). This rejection has been overcome because Applicants have herein submitted a declaration of inventors in accordance with 37 C.F.R. §1.131 (attached as Appendix A). The declaration sets forth facts demonstrating conception with diligence to reduction to practice of

the claimed invention prior to May 17, 1999, the earliest priority date of Zhuang *et al.* The above discussion pertaining to the declaration of inventors is herein incorporated into this section.

Thus, the evidence set forth in Appendix A demonstrates that the inventors conceived of their invention prior to May 17, 1999, and were diligent in reducing their invention to practice. Applicants note the declaration is in accordance with 37 C.F.R. §1.131(a)(1) and MPEP §715, as Zhuang *et al.* does not appear to Applicants to claim the same patentable invention. More particularly, Zhuang *et al.* does not appear to Applicants to include any claims directed to the combination of a dye and a basic reagent.

Therefore, in view of the above, it is respectfully submitted that the rejection of claims 1, 21-22, and 26-27 based on Zhuang *et al.* have been overcome.

#### **7. Rejections Based on Broll *et al.***

Claims 1, 74, and 75 have been rejected under 35 U.S.C. 102(b) as being anticipated by Broll *et al.* Applicants respectfully traverse.

Regarding each of the claims at issue, Broll *et al.* does not anticipate because it does not disclose a composition that includes both a basic reagent and a dye. The Examiner has not cited, nor do Applicants identify, any disclosure in Broll *et al.* pertaining to such compositions. The Examiner has cited col. 1, lines 4-8 of Broll *et al.* in support of this rejection. This section of Broll makes a vague reference to “various solutions and compositions,” without making specific reference to a basic reagent. Although the reference makes reference to certain “quaternary ammonium compounds,” there is no indication in Broll *et al.* that such compounds are basic reagents. Nor has the Examiner set forth any evidence to show that it is inherent that quaternary

ammonium compounds are basic reagents. Thus, claims 1, 74, and 75 are not anticipated by Broll *et al.*

As to claims 74 and 75, Broll *et al.* further does not anticipate because it does not disclose any information pertaining to disinfecting and/or sterilizing a fluid. The Examiner has cited col. 1, lines 18-36, which appears to Applicants to generally pertain to certain background information regarding the “washing and rinsing of tableware.” Column 1, line 18. However, “washing and rinsing of tableware” is separate and distinct from disinfecting and/or sterilizing a fluid.

#### **8. Rejections Based on Greenberg *et al.***

Claims 1, 74, 76, and 77 have been rejected under 35 U.S.C. 102(e) as being anticipated by Greenberg *et al.* Applicants respectfully traverse.

Greenberg *et al.* does not anticipate claim 1, 74, 76, and 77 because it does not expressly or inherently disclose any composition comprising a basic reagent and a dye. The only reference to a dye in Greenberg is the context of certain monitoring systems that employ a free radical trap. See para [0044] of Greenberg *et al.* There is no disclosure in this paragraph, or any other paragraph of Greenberg *et al.*, pertaining to compositions comprising a basic reagent and a dye. Employment of methylene blue as a free radical trap is separate and distinct from a composition comprising a basic reagent and a dye.

Regarding claim 74, Greenberg *et al.* further fails to anticipate because it fails to expressly or inherently disclose any information pertaining to a method for disinfecting and/or sterilizing a fluid. The Examiner has cited paragraph [0019] of Greenberg *et al.* in support of this rejection. There is no indication in Greenberg *et al.* that the reference in this paragraph

pertaining to “removal of contaminants” equates with disinfecting and/or sterilizing. Nor is this limitation inherent in this paragraph, as it is possible to remove contaminants that are noninfectious, such as organic contaminants, heavy metals, and the like.

In view of the above, Greenberg *et al.* fails to anticipate the claimed invention. Therefore, Applicants respectfully request that the rejection of claims 1, 74, 76, and 77 under 35 U.S.C. 102(e) should be withdrawn.

**D. The Rejections Based on 35 U.S.C. §103(a) Have Been Overcome**

**1. Rejections Based on Harper *et al.* in View of Kirk-Othmer Encyclopedia of Chemical Technology**

Claims 6, 7, 9, 11, and 15-19 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Harper *et al.* (as applied above), and further in view of Kirk-Othmer Encyclopedia of Chemical Technology. Applicants respectfully traverse.

In rejecting claims under 35 U.S.C. §103, the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. See *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ.2d 1955, 1956 (Fed. Cir. 1993). In order to establish a *prima facie* case of obviousness, three basic criteria must be met: (1) the prior art reference (or references when combined) must teach or suggest all the claim limitations; (2) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (3) there must be a reasonable expectation of success. *MPEP* § 2142. See also *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q. 2d 1438 (Fed Cir. 1991). It is important to note that *all three elements* must be shown to establish a *prima facie* case of obviousness. Thus, if one element is missing, a *prima facie* case of obviousness does not exist.

There is no *prima facie* case of obviousness because the Examiner has not met his burden of showing any motivation or suggestion to combine the teachings of the claimed references. Kirk-Othmer provides no information pertaining to preparation of compositions, or compositions of dyes with any other reagents. In the absence of any suggestion or motivation to combine reference teachings, there can be no *prima facie* case of obviousness.

Nevertheless, there can be no *prima facie* case of obviousness because Harper *et al.* is not available for combination with Kirk-Othmer in a rejection under 35 U.S.C. §103(a). As set forth above, Harper *et al.* has been overcome because Applicants have herein submitted a declaration of inventors in accordance with 37 C.F.R. §1.131 (attached as Appendix A). The declaration sets forth facts demonstrating reduction to practice of the claimed invention prior to December 20, 2000, the earliest priority date of Harper *et al.*.

Furthermore, Kirk-Othmer alone fails to render the claimed invention obvious. Kirk-Othmer is a list of FD&C and D&C dyes. As discussed above, Kirk-Othmer provides no information regarding basic reagents, or any information regarding compositions of basic reagents and dyes.

Therefore, in view of the above, there is no *prima facie* case of obviousness in view of Harper *et al.* and Kirk-Othmer. Therefore, it is respectfully requested that the rejection of claims

## **2. Rejections Based on Narang *et al.* in View of Edge**

Claim 39 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Narang *et al.* as applied to claim 36 above, and further in view of Edge. Applicants respectfully traverse.

There is no *prima facie* case of obviousness because the Examiner has not established that Narang *et al.* in view of Edge teaches or suggests each limitation of the claimed invention. Narang *et al.* fails to teach or suggest a compound that includes a basic reagent bound to a dye.

Narang *et al.* pertains to certain adhesive applicator tips for the application of certain monomeric adhesive compositions. See abstract. The Examiner has cited paragraphs [0052], [0054], and [0062] as teaching an antiseptic composition comprising a basic reagent (chlorhexidine) and a dye (gentian violet or crystal violet). No paragraph is cited as teaching binding of a dye and a basic reagent. More particularly, Narang *et al.* teaches that chlorhexidine is an example of a “bioactive material” and gentian violet (or crystal violet) is an example of an “initiator” that is also a “bioactive material.” See paragraphs [0052] and [0062]. Paragraph [0049] of Narang *et al.* states that:“

The material applied to the applicator tip can be any material, but is preferably an initiator that initiates polymerization and/or cross-linking of the monomer; a polymerization rate modifier, which modifies the rate of polymerization of the monomer; a bioactive material, such as a medicament; and/or a flavorant.

Further, paragraph [0060] indicates that:

In embodiments where the initiator is also a bioactive material, the bioactive material is applied into the tip in an amount that is effective to initiate polymerization and to be effective for the biological activity intended.

Neither of these paragraphs, or any other disclosure in Narang *et al.*, appears to contemplate the combination of a first agent that is both a “bioactive agent” and an “initiator” with a second agent that is only a “bioactive material,” or any binding of such agents. In fact, paragraph [0060] appears to address the benefits of a single agent that is dually an “initiator” and “bioactive agent.” Thus, if anything, this paragraph teaches away from the any combination of an agent that is both an “initiator” and “bioactive agent” with a second “bioactive agent.”

Nor does Edge provide the limitations that are missing in Narang *et al.* Edge appears to pertain to certain compositions of retinal cells and methods of treating certain retinal disorders using these cells. The Examiner has not cited any information in Edge pertaining to binding of a dye and a basic reagent, or any information pertaining to antiseptic compositions.

Further, there is no *prima facie* case of obviousness because Edge and Narang *et al.* are references in nonanalogous arts. In particular, Edge pertains to ophthalmic/transplantation literature, whereas Narang *et al.* pertains to applicator tips. These two references are in entirely different fields. Therefore, one of ordinary skill in the art would thus not be motivated to combine these reference teachings.

In any event, Edge is not available for a rejection under 35 U.S.C. §103(a) because Applicants have herein submitted a declaration (Appendix A) under 37 C.F.R. §1.131 showing conception with diligence to reduction to practice of the claimed invention before August 25, 1998, the filing date of Edge.

In view of the above, the Examiner has failed to establish a *prima facie* case of obviousness. Therefore, Applicants respectfully request that the rejection of claim 39 should be withdrawn.

### **3. Rejections Based on Narang *et al.* in View of Harper *et al.***

Claim 40 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Narang *et al.* (as applied to claim 36 above), and further in view of Harper *et al.*

There is no *prima facie* case of obviousness because the Examiner has not established any suggestion or motivation to one of ordinary skill in the art to combine reference teachings, or any basis for a reasonable expectation of success. Narang *et al.* pertains to applicator tips, and not to antiseptic compositions. Thus, Narang *et al.* and Harper *et al.* appear to be nonanalogous arts.

Furthermore, Harper *et al.* fails to teach or suggest any binding of a basic reagent and a dye. In addition, Harper *et al.* is not available for combination with Narang under 35 U.S.C.

§103(a) because Applicants have herein submitted a declaration of inventors under 37 C.F.R. §1.131 setting forth diligence with reduction to practice of the claimed invention before the priority date of Harper *et al.*

As discussed above, the discussion of which is herein incorporated into this section, Narang *et al.* fails to teach or suggest each limitation of the claimed invention because it fails to teach or suggest bindin of a basic reagent and a dye, or any information pertaining to the surface of silk sutures.

As a result, in view of the above, the Examiner has failed to establish a *prima facie* case of obviousness. Therefore, Applicants respectfully request that the rejection of claim 40 should be withdrawn.

#### **4. Rejections Based on Houze *et al.***

Claim 44 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Houze *et al.* Applicants respectfully traverse.

There is no *prima facie* case of obviousness because Houze *et al.* fails to teach or suggest each limitation of the claimed invention. In particular, the Examiner has not cited, nor do Applicants identify, any disclosure in Houze *et al.* pertaining to bonding between a basis reagent and a dye, or any compound comprising a basic reagent and a dye.

Nevertheless, for the reasons set forth above, a rejection under 35 U.S.C. §103(a) based on Houze *et al.* is impermissible because Applicants have herein submitted a declaration under 37 C.F.R. §1.131 (attached as Appendix A).

Therefore, in view of the above, Applicants respectfully request that the rejection of claim 44 under 35 U.S.C. §103(a) should be withdrawn.

### **5. Rejections Based on Narang *et al.***

Claims 45 and 49 are rejected under 35 U.S.C. §103(a) as being unpatentable over Narang *et al.* Applicants respectfully traverse.

There can be no *prima facie* case of obviousness because, for the reasons set forth above (the discussion of which is herein incorporated into this section), Narang *et al.* fails to teach or suggest each limitation of the claimed invention. More particularly, Narang *et al.* fails to teach or suggest any information pertaining to compounds comprising a basic reagent and a dye, or binding of a basic reagent to a dye. Therefore, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to coat a surface with a compound comprising a basic reagent bound to a dye since no such composition is taught or suggested by Narang *et al.*

Therefore, in view of the above, it is respectfully requested that the rejection of claims 45 and 49 based on Narang *et al.* should be withdrawn.

### **6. Rejections Based on Narang *et al.* in View of Beerse *et al.***

Claims 46-48 and 50 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Narang *et al.* as applied to claim 45 above, and further in view of Beerse *et al.*

There can be no *prima facie* case of obviousness because, for the reasons set forth above (the discussion of which is herein incorporated into this section), Narang *et al.* fails to teach or suggest each limitation of the claimed invention. More particularly, Narang *et al.* fails to teach or suggest any information pertaining to compounds comprising a basic reagent and a dye, or binding of a basic reagent to a dye. Therefore, it would not have been obvious to one of ordinary

skill in the art at the time the invention was made to coat a surface with a compound comprising a basic reagent bound to a dye since no such composition is taught or suggested by Narang *et al.*

Further, Beerse *et al.* fails to remedy the deficiencies of Narang *et al.* The Examiner has failed to set forth, nor are Applicants able to identify, any teaching or suggestion in Beerse *et al.* pertaining to compounds comprising a basic reagent and a dye.

Therefore, in view of the above, it is respectfully requested that the rejection of claims 46-48 and 50 under 35 U.S.C. 103(a) should be withdrawn.

#### **7. Rejections Based on Houze *et al.*, and Further in View of Beerse *et al.***

Claim 72 and 73 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Houze *et al.*, as applied to claim 69 above, and further in view of Beerse *et al.*

As discussed above, Houze *et al.* has been overcome as an anticipatory reference because Applicants have herein submitted a declaration of inventors in accordance with 37 C.F.R. §1.131 (attached as Appendix A). The declaration sets forth facts demonstrating conception with diligence to reduction to practice of the claimed invention prior to September 28, 1998, the earliest priority date of Houze *et al.*

Further, Beerse *et al.* fails to remedy the deficiencies of Houze *et al.* The Examiner has failed to set forth, nor are Applicants able to identify, any teaching or suggestion in Beerse *et al.* pertaining to compounds comprising a basic reagent and a dye.

Therefore, in view of the above, it is respectfully requested that the rejection of claims 72 and 73 under 35 U.S.C. 103(a) based on Houze *et al.* in view of Beerse *et al.* should be withdrawn.

**E. Conclusion**

It is submitted that in light of the foregoing, the invention embraced by the pending claims as been shown to be patentable, and favorable reconsideration is earnestly solicited. Therefore, Applicants respectfully request that the Examiner withdraw each of the above rejections.

**III. REQUEST FOR EXTENSION OF TIME**

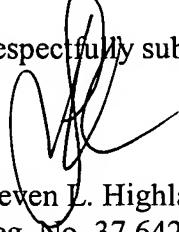
Pursuant to 37 C.F.R. § 1.136(a), Applicants petition for an extension of time of two months to and including October 31, 2005, in which to respond to the Office Action dated May 31, 2005.

Pursuant to 37 C.F.R. § 1.17, a check in the amount of \$225.00 is enclosed, which is the process fee for a two-month extension of time for a small entity.

If the check is inadvertently omitted, or should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason relating to the enclosed materials, or should an overpayment be included herein, the Commissioner is authorized to deduct or credit said fees from or to Fulbright & Jaworski Deposit Account No. 50-1212/UTSC:669US/SLH.

The Examiner is invited to contact the undersigned attorney at (512) 536-3184 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



Steven L. Highlander  
Reg. No. 37,642  
Attorney for Applicant

FULBRIGHT & JAWORSKI L.L.P.  
600 Congress Avenue, Suite 2400  
Austin, Texas 78701  
(512) 474-5201 (telephone)  
(512) 536-4598 (facsimile)

Date: October 31, 2005